

**EXHIBIT F**

1  
COPY

2 UNITED STATES DISTRICT COURT

3 EASTERN DISTRICT OF NEW YORK

4 -----  
5 FRED LEE AND ANN LEE,

Plaintiff,

6 - against -

7 UNION MUTUAL FIRE INSURANCE,

8 Defendant.  
9 -----

10 Held Via Zoom

11  
12  
13 June 24, 2021  
14 2:04  
15

16 EXAMINATION BEFORE TRIAL OF THE

17 Non-Party Witness, FREDERICK V. HARPER, taken by  
18 Plaintiff, pursuant to Order and held at the  
19 above-mentioned time and place before a Notary  
20 Public of the State of New York.  
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GREENBLATT & AGULNICK, P.C.  
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BY : ERIC T. BORON, ESQ.

-oOo-

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2 IT IS HEREBY STIPULATED AND AGREED by  
3 and among the attorneys for the respective  
4 parties hereto, that:

5  
6 All rights provided by the C.P.L.R.,  
7 including the right to object to any  
8 question or to move to strike any testimony  
9 at this examination, are reserved; and, in  
10 addition, the failure to object to any  
11 question or to move to strike testimony at  
12 this examination shall not be a bar or  
13 waiver to make such motion at, and is  
14 reserved for, the trial of this action.

15  
16 IT IS HEREBY STIPULATED AND AGREED  
17 that this deposition may be sworn to by the  
18 witness being examined before a Notary  
19 Public other than the notary Public before  
20 whom this examination was begun, but the  
21 failure to do so or to return the original  
22 of this examination to counsel, shall not be  
23 deemed a waiver of the rights provided by  
24 Rules 3116 and 3117 of C.P.L.R., and shall  
25 be controlled thereby.

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IT IS HEREBY STIPULATED AND AGREED  
that the filing and certification of the  
original of this examination shall be the  
same and thereby waived; and that a copy of  
the transcript shall be furnished to counsel  
representing the witness herein, without  
charge.

-oOo-

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2 COURT REPORTER: The attorneys  
3 participating in this deposition  
4 acknowledge that I am not physically  
5 present in the deposition room and that  
6 I will be reporting from this deposition  
7 remotely. They further acknowledge  
8 that, in lieu of an oath administered in  
9 person, the witness will verbally  
10 declare his testimony in this matter is  
11 under penalty of perjury. The parties  
12 and their counsel consent to this  
13 arrangement and waive any objections to  
14 this manner of reporting.

15  
16 Please indicate your agreement by  
17 stating your name and agreement on the  
18 record.

19 MR. AGULNICK: My name is Scott  
20 Agulnick and I agree.

21 MR. BORON: My name is Eric  
22 Boron and I agree.

23  
24  
25  
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2 FREDERICK V. HARPER, called as a witness, having  
3 been duly sworn, was examined and testified as  
4 follows:

5 BY REPORTER:

6 Q Please state your name for the record.

7 A Frederick V. Harper.

8 Q Where do you presently reside?

9 A 52 Greenridge Avenue, White Plains, New  
10 York 10605.

11 EXAMINATION BY

12 SCOTT AGULNICK

13 Q Mr. Harper, Good afternoon. My name is  
14 Scott Agulnick. I'm an attorney with the law firm  
15 of Greenblatt & Agulnick. We represent the  
16 plaintiffs in an action brought against Union  
17 Mutual.

18 I'm going to ask you a series of  
19 questions. My questions today are not designed to  
20 trick you or deceive you. If you do not  
21 understand any of my questions, please let me know  
22 and we'll rephrase it. If you'd like a break for  
23 whatever reason, please let us know. The court  
24 reporter can only take down verbal responses. She  
25 can't take down any kind of hand gestures, etc.

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2 A Okay.

3 Q Mr. Harper, by whom are you employed?

4 A Round Hill Express.

5 Q How long have you been employed by Round  
6 Hill Express?

7 A Approximately seven years.

8 Q Are you an actual employee of Round Hill  
9 Express or an independent contractor?

10 A Independent contractor.

11 Q Do you have a company that you operate  
12 under or is it just Frederick Harper?

13 A Just Frederick Harper.

14 Q What is the nature of the work that you  
15 perform for Round Hill?

16 A I inspect properties for insurance.

17 Q Do you perform those services for other  
18 insurance companies or just Round Hill Express?

19 A Just Round Hill Express.

20 Q So you perform these inspections  
21 exclusively for Round Hill Express and no other  
22 company?

23 A Correct.

24 Q Are you engaged in any other occupation  
25 or employment, apart from the inspections that you

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2 do for Round Hill Express?

3 A No.

4 Q As you sit here today are you  
5 represented by counsel with regard to this matter?

6 A Yes.

7 Q When did you first retain counsel with  
8 regard to this matter?

9 A Probably two to three weeks before  
10 today.

11 MR. ENGLERT: For the record,  
12 we're appearing for the limited purpose  
13 of defending Mr. Harper at this  
14 deposition. We don't have a retainer  
15 agreement signed with him and he's not  
16 going to be charged, but we'll be  
17 billing Union Mutual for the work.

18 MR. AGULNICK: He's a non-party  
19 witness. There's no defending. This is  
20 a fact finding mission. In any event,  
21 duly noted.

22 Q Prior to testifying here today did you  
23 review any documents in connection with this  
24 matter?

25 A No.

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2 Q Prior to testifying here today did you  
3 perform a search for any documents relevant to any  
4 inspection you performed at the property owned by  
5 Fred and Ann Lee?

6 A No.

7 Q Do you know what matter you're here for?

8 A Not the details of the case. Just that  
9 it was an inspection I performed and I'm here for  
10 a deposition.

11 Q Is there a particular process that you  
12 follow when you perform inspections for Round Hill  
13 Express?

14 A Can you say that again? I'm sorry.

15 Q Is there a particular process or  
16 procedure that you follow when you perform an  
17 inspection for Round Hill Express?

18 A Yes. As far as the exterior and  
19 interior of the home, my job is to look on the  
20 outside, front, back, sidewalk, and check for  
21 utilities on the inside and stairways for safety  
22 reasons.

23 Q When you're assigned a matter how are  
24 you assigned a matter?

25 A I'm given an itinerary with an address

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2 and contact number with the date and time.

3 Q What information is contained on the  
4 itinerary, other than an address, contact number,  
5 date and time?

6 A The person's name and basically who the  
7 insurance company or agents are who set up the  
8 appointments on that.

9 Q Any other information?

10 A Outside of that just what kind of house  
11 it is, if it's brick or frame. That's about it.

12 Q How do you receive this assignment?

13 A I am given an itinerary on a daily  
14 basis. The office calls and sets the  
15 appointments, I'm given the time and place, it is  
16 emailed to me and that's it.

17 Q The itinerary is emailed to you along  
18 with the information with regard to the property?

19 A Yes, I'm given a schedule.

20 Q At any point in time did you receive an  
21 email in connection with the inspection of the Lee  
22 property?

23 A I'm sorry. You broke up. Repeat that.

24 Q Did you ever perform a search for the  
25 emails relating to your inspection of the Lee

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2 property?

3 A No.

4 Q Do you still have your emails from June  
5 and July of 2017?

6 A No.

7 Q What happened to your emails in June and  
8 July of 2017?

9 A Can you explain when you say my emails?

10 Q My question to you is if you were  
11 emailed an itinerary in June or July of 2017,  
12 would you still have it?

13 A Yes, as far as the itinerary.

14 Q Did you ever perform an inspection of  
15 39-11 27th Street in Long Island City, New York?

16 A If it says I was assigned for that, yes.

17 Q Do you have a recollection of performing  
18 an inspection at that location?

19 A Unfortunately, no. I perform many  
20 inspections so to remember one specific address  
21 from four years ago, no.

22 Q How many inspections do you do on a  
23 weekly basis?

24 A Thirty to fifty.

25 Q How long does each inspection take on an

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2 average basis?

3 A Approximately ten minutes.

4 Q In connection with each inspection do  
5 you take photos?

6 A Yes.

7 Q In 2017 on what device did you take  
8 photos?

9 A On a Samsung tablet.

10 Q The photos that you took on the Samsung  
11 tablet in 2017, did those photos save to the  
12 device, save to the Cloud, both, or something  
13 else?

14 A All inspections are synched up to Round  
15 Hill Express. They are not kept on my device.

16 Q Approximately how many photos do you  
17 take on a typical inspection?

18 A Probably a dozen.

19 MR. AGULNICK: I'm sorry. Can I  
20 just pause for a second?

21 (Whereupon, a discussion was held  
22 off the record.)

23 Q The instructions as to what to inspect  
24 or observe at a property, how are those  
25 instructions received? Were they verbal, by email

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2 a memo, or something else?

3 A Verbally and by email.

4 Q When you say by email, is that for each  
5 inspection?

6 A Say that again. I'm sorry.

7 Q You have to allow me to finish my  
8 question before you start, because the court  
9 reporter can only take down one of us.

10 MR. AGULNICK: Read that back  
11 please.

12 (Whereupon, the record was read back by  
13 the reporter.)

14 Q Or was it blanket instructions?

15 A Blanket instructions.

16 Q When did you receive those blanket  
17 instructions for the first time?

18 A The first year of employment.

19 Q What year was that?

20 A 2014.

21 MR. AGULNICK: I'd like this  
22 deemed marked as Plaintiff's Exhibit A.  
23 (Whereupon, a report was marked as  
24 Plaintiff's Exhibit A for  
25 identification, as of this date.)

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2 Q I'm going to show you what we're going  
3 to deem marked as Plaintiff's Exhibit A for today.  
4 Do you see what I have on the screen now?

5 A I see part of it.

6 Q I'll start from the top and scroll to  
7 the bottom. Have you ever seen this report  
8 before?

9 A No, I can't recall it.

10 Q Does your work product look like this  
11 report or do you simply submit or upload  
12 photographs and some information to a portal,  
13 which thereafter generates a report or something  
14 else?

15 A I upload the information and then it is  
16 put into the form we're looking at.

17 Q Do you actually see the information that  
18 you furnish in this form deemed marked as Exhibit  
19 A?

20 A No.

21 Q You would have uploaded full-sized photo  
22 files and submitted those to Round Hill Express,  
23 correct?

24 A Correct.

25 Q The information that's contained in this

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2 report, the notations, that's just information  
3 submitted to Round Hill's portal, is that correct?

4 A Correct.

5 Q The portal that Round Hill utilizes in  
6 connection with these inspections, is there a name  
7 for that interface or program?

8 A I believe it's called DBI Pro. It's an  
9 application for the tablet which the photos are  
10 taken on.

11 Q Is your recollection refreshed at all by  
12 reviewing this report marked as Exhibit A?

13 A No.

14 Q Apart from what you enter into the DBI  
15 Pro application and upload, do you retain any  
16 information related to inspections?

17 A No.

18 Q How do you bill for the inspection?

19 A Per inspection.

20 Q Do you invoice Round Hill Express or  
21 something else?

22 A It is paid based on how many inspections  
23 are done. So it's the same fee for every  
24 inspection and then the number and the quantity  
25 by the fee.

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2           Q     Do you have any information which would  
3           indicate that you performed the inspection at  
4           39-11 27th Street in Long Island City, New York?

5           A     Not in front of me, no.

6           Q     Do you have any information at all,  
7           which confirms to you that you actually performed  
8           this inspection as opposed to somebody else?

9           A     No.

10          Q     Did someone tell you that you performed  
11          this inspection?

12          A     Yes. It was four years ago you said?

13          Q     Yes. I'll represent to you that your  
14          attorneys and Union Mutual represented that you  
15          performed this inspection on or about July 11,  
16          2017.

17                 The first photo in Exhibit A, do you see  
18          that photo?

19          A     Yes.

20          Q     There's an annotation next to it that  
21          says exterior. Do you see that?

22          A     Yes.

23          Q     Next to that it says front clean. Do  
24          you see that?

25          A     Yes, sir.

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2           Q     The photo appears to depict the front of  
3     the premises at 39-11 27th Street. Do you agree  
4     with that?

5           A     Yes.

6           Q     The gentleman in the photo, and I'm  
7     going to make it a little bigger, do you have a  
8     recollection of meeting an insured that looks like  
9     the gentleman in the photo?

10          A     No.

11          Q     Based upon representation by Union  
12     Mutual that you performed the inspection, is it  
13     fair to say you took a photograph of the front of  
14     the insured location?

15          A     Yes.

16          Q     I'm going to scroll to the second page.  
17     This appears to be the back of the location. Do  
18     you agree with that?

19          A     Yes.

20          Q     Based upon representation by Union  
21     Mutual that you performed this inspection, it is  
22     fair to say you took a photograph of the back of  
23     the insured premises, correct?

24          A     Yes.

25          Q     The bottom photo on page 2, is it fair

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2 to say you took a photograph of the front steps at  
3 the location?

4 A Yes.

5 Q And depicted in that photograph are  
6 also mailboxes and the insured location?

7 A I'm sorry. It only shows the sidewalk.  
8 Can you go in a little closer?

9 Q Yes.

10 A I see a mailbox, yes.

11 Q Scrolling to the next page there's a  
12 photo with an annotation next to it that says  
13 interior. Do you see that photograph?

14 A Yes.

15 Q Are you able to tell me whether the  
16 stairs are coming up from the first floor, coming  
17 from the second floor to the third floor, down to  
18 the basement, or something else?

19 A First floor.

20 Q How do you know it's the first floor?

21 A That is the picture I take because  
22 that's the most common stairway, unless there's  
23 multiple pictures of stairs for some reason.

24 Q On the first floor or the second floor,  
25 do you know where the doors to the individual

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2 apartments were?

3 A No.

4 Q Next there's a picture of mechanicals.

5 Do you know where the mechanicals were located at  
6 the insured location?

7 A At this location I would not know for  
8 sure. Most are in the basement or the first level  
9 of the building.

10 Q I'm going to show you on page 4 of 5,  
11 there's photos that appear to be electric meters.  
12 Do you see that?

13 A I see electric meters, yes.

14 Q Is it part of your instructions to take  
15 photos of the electric meters at a location?

16 A Yes.

17 Q Based upon the representation that Union  
18 Mutual had advised you performed the inspection,  
19 is it fair to say you took photos of these  
20 electric meters?

21 A Yes.

22 Q If I represent to you that the electric  
23 meters at the insured location are located in the  
24 basement, would you agree that the electric meters  
25 you photographed were in the basement?

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2           A     That would vary because, as I mentioned,  
3           it could be the first floor or the basement. In  
4           most properties it is the basement level.

5           Q     But you have no recollection?

6           A     No.

7           Q     What is depicted in the bottom photos?

8           A     Gas meters.

9           Q     Do you know where the gas meter is  
10          located at the insured location?

11          A     I could not say definitively with this  
12          location. Gas meters can be located in multiple  
13          areas. It could be outside in the garage, it  
14          could be in the basement. I cannot say  
15          definitively where in this apartment they were  
16          located.

17          Q     Going back to the photos of the electric  
18          meters, on one of the meters it says first floor  
19          and on the second one there's writing that says  
20          second floor. Do you see that?

21          A     Yes.

22          Q     If I asked you by looking at these  
23          photos and based upon your recollection if there's  
24          an apartment on the first floor, what would your  
25          answer be?

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2 A Yes.

3 Q What is that answer based upon?

4 A If it says first floor it's probably on  
5 the first floor.

6 Q And the same question for the second  
7 floor. If there was an electric meter which has  
8 writing that says second floor, would your  
9 conclusion be there is an apartment on the second  
10 floor as well?

11 A Yes.

12 Q If you're taking pictures of the gas  
13 meters thereafter, would it be a fair conclusion  
14 that one of those gas meters is for the apartment  
15 on the first floor and one is for the apartment on  
16 the second floor?

17 A Yes.

18 Q I'm going to show you the bottom photo  
19 on page 5 of 5. Can you tell what is depicted in  
20 that photo?

21 A Boiler and hot water heater.

22 Q Are you able to tell me where the boiler  
23 and hot water heater are located at the insured  
24 premises?

25 A As I mentioned, it's either the basement

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2 or the first floor.

3 Q When you say the basement or the first  
4 floor, do you mean the lowest floor or it could be  
5 located in the basement or on the first floor?

6 A It could be located in the basement or  
7 on the first floor.

8 Q Looking at this photo, and I'll zoom in,  
9 are you able to determine the location of this  
10 heating equipment by virtue of the fact that there  
11 appears to be a concrete floor in the photo?

12 A Yes.

13 Q And the fact that there's a concrete  
14 floor in the photo, what does that indicate to  
15 you?

16 A It's most likely the basement.

17 Q If I represented to you that the gas  
18 meters are in the basement, would that lead you to  
19 conclude that you did, in fact, go into the  
20 basement?

21 A Yes.

22 Q Do you know how you entered into the  
23 basement at the time you performed the inspection?

24 A No.

25 Q Apart from the photographs depicted in

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2       this five page report provided by Union Mutual,  
3       are you aware of any other photographs that you  
4       took on that day?

5             A     No.

6             Q     Again, you don't have any independent  
7       recollection of actually performing the  
8       inspection?

9             A     No.

10            Q     You understand when I refer to the  
11       insured location that we're referring to 39-11  
12       27th Street, Long Island City, New York, correct?

13            A     Yes.

14            Q     When is the first time you were  
15       contacted with regard to this inspection? I'm  
16       speaking about in connection with the litigation  
17       that's been commenced and underway?

18            A     In the last two to three weeks.

19            Q     Who initially contacted you?

20            A     The attorney's firm that is representing  
21       me.

22            Q     How long after that first conversation  
23       did Hurwitz and Fine or the attorney in the room  
24       commence representing you?

25            A     I'm sorry. Can you repeat that

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2 question?

3 Q You were contacted by counsel and at one  
4 point after being contacted did that attorney  
5 begin representing you?

6 A Upon being told that there was a  
7 deposition.

8 Q Prior to being told there was a  
9 deposition what, if anything, did you discuss?

10 A Nothing.

11 Q Did they ask you if you performed this  
12 inspection?

13 A No.

14 Q Did they tell you performed this  
15 inspection?

16 A I was told that it was an inspection I  
17 had performed and that there was a deposition  
18 linked to this case that needed to be performed  
19 and when was I available for it.

20 Q In reviewing these photos are you able  
21 to tell us where in the insured location you  
22 walked?

23 A No.

24 Q But you were at least on the first floor  
25 and at least in the basement, is that fair?

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2 A Yes.

3 Q Who is your contact at Round Hill  
4 Express should you have any issues or questions or  
5 otherwise?

6 A The contact number for the office.

7 Q Is there an individual that serves as  
8 your liaison or your contact?

9 A No.

10 Q If you have a question regarding an  
11 inspection you just call Round Hill and ask to  
12 speak to anyone or is there anyone in particular?

13 A I can speak with any of the people  
14 working in the office.

15 Q Do you issue Round Hill an invoice  
16 before you can get paid or is payment automatic or  
17 something else?

18 A Payment is automatic based on the number  
19 of inspections done multiplied by price per  
20 inspection, which is the same.

21 MR. AGULNICK: Give me five  
22 minutes. I may be coming to a  
23 conclusion.

24 (Whereupon, a discussion was held off  
25 the record.)

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2           Q     Mr. Harper, I'm going to direct you to  
3     the first page of Plaintiff's Exhibit A,  
4     specifically the writing which says report  
5     reviewed and assembled on July 11, 2017.

6                     Do you know what that indicates, meaning  
7     who would have reviewed it and assembled it?

8           A     No.

9           Q     Is it your belief that would have been  
10    someone at Round Hill Express or Union Mutual?

11          A     Yes.

12          Q     Mr. Harper, I'm going to ask you to  
13    perform a search for the email assignment  
14    pertaining to this inspection, your email, and all  
15    documents related to the inspection of 39-11 27th  
16    Street and provide the results of that inspection  
17    to Mr. Boron or his colleagues. Understood?

18          A     Just so you know, the only information  
19    that I would have in my records pertaining to  
20    would be the address, the time and the phone  
21    number, as for every address I did an inspection  
22    of that day. I wouldn't have any other details in  
23    my computer.

24          Q     Whatever you do locate, just provide  
25    that to Mr. Boron or his colleagues.

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2           A     If you can just give me the date again  
3     for me to look.

4           Q     I'll represent that the report says  
5     report reviewed and assembled on July 11, 2017.

6           A     Got it.

7           Q     Sir, what is your highest level of  
8     education?

9           A     Master's.

10          Q     A Master's in what?

11          A     Elementary Education.

12          Q     Did you participate in any formal  
13     training with regard to inspections for insurance  
14     purposes?

15          A     Yes.

16          Q     Where did you have such training?

17          A     I shadowed an employee for the company  
18     for the first month and was trained.

19          Q     Who was that employee?

20          A     Todd Harper.

21          Q     I'm going to take a shot in the dark  
22     here. Brother?

23          A     No.

24          Q     Cousin?

25          A     No, not really. We just have the same

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2 last name. We went to school together, but we  
3 have no biological relation.

4 Q So Todd Harper took you around for a  
5 month and showed you the ropes?

6 A Yes, sir.

7 Q When you performed the inspections in  
8 July 2017 were you solo or did you have a  
9 ride-along or a companion or anything else?

10 A Solo.

11 Q When you perform the inspections do you  
12 take any type of handwritten notes on a pad or  
13 otherwise, apart from the entries you upload to  
14 Round Hills system?

15 A No.

16 (Continued on following page to  
17 accommodate jurat and signature.)  
18  
19  
20  
21  
22  
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2 MR. AGULNICK: Sir, I thank you  
3 for your time today. If you do locate  
4 any documentation, and I trust you will  
5 do a diligent search for that, that you  
6 provide it. Otherwise, stay safe, stay  
7 well.

8 (TIME NOTED: 2:48)

9  
10 \_\_\_\_\_  
11 Frederick V. Harper

12 Subscribed and sworn to before me  
13 this \_\_\_\_\_ day of \_\_\_\_\_, 2021  
14  
15

16 \_\_\_\_\_  
17 Notary Public  
18  
19  
20  
21  
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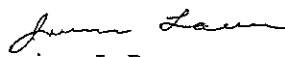
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## C E R T I F I C A T E

I, Janine LaRocco, a Shorthand Reporter  
and Notary Public, do hereby certify:

That I was the reporter for the within  
action and that this transcript is a true  
and accurate record of the within  
proceedings.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 13th day of July 2021

  
Janine LaRocco

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LAWYER'S NOTES PERTAINING TO EBT